

May 25, 2007

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: King County Department of Transportation File No. **V-2536**
Proposed Ordinance No. **2007-0017**
Parcel No. **346030-0010**

HELEN & MING YU
Road Vacation Petition

Location: 151st Avenue Southeast

Petitioners: **Helen & Ming Yu**
2419 – 132nd Avenue Southeast
Bellevue, Washington 98006
Telephone: (425) 522-1027

King County: Department of Transportation,
Road Services Division, *represented by*
Nicole Keller
201 S. Jackson Street
Seattle, Washington 98104-3856
Telephone: (206) 296-3731
Facsimile: (206) 296-0567

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:
Department's Final:
Examiner's:

Approve road vacation
Approve road vacation
Approve road vacation

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for Item No. V-2536 was received by the Examiner on February 12, 2007.

PUBLIC HEARING:

After reviewing the Department's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2536 was opened by the Examiner on March 7, 2007, in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, WA 98104, and was continued administratively for receipt of a recorded drainage easement document, which was received on March 15, 2007 and a recorded survey document which was received on March 19, 2007. Final confirmation of their conformity and that of the proposed ordinance language was received on April 30, 2007, and the record closed. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	Portion of 151st Avenue Southeast
Right of way classification:	C
Area:	6,142 square feet
Compensation:	\$6,909.75

2. The Notice of Hearing on the Department's report was given as required by law, and a hearing on the report was conducted by the Examiner on behalf of the Metropolitan King County Council.
3. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department's report to the Examiner for the March 7, 2007, public hearing and the statement of facts contained in Proposed Ordinance No. 2007-0017. The Department's report will be attached to those copies of this report and recommendation that are submitted to the County Council.
4. Maps showing the vicinity of the proposed vacation and the specific area to be vacated appear in the hearing record as exhibit nos. 11 and 14.
5. The subject right-of-way is currently maintained for public use, but is not necessary for the present or future public road system for travel or general utilities purposes (subject to the establishment of utility easements as necessary; see Finding 7).
6. Vacation of the right-of-way would have no adverse effect on the provision of access and fire and emergency services to the abutting subject property and surrounding area.
7. The easements necessary to be retained for the construction, repair and maintenance of public utilities and services have been duly recorded, with the exception of one, for Comcast cable communications. Comcast has obtained an easement pre-authorization from the Applicants.

8. The compensation required by law to be paid as a condition precedent to vacation of this road has been deposited with King County.

CONCLUSION:

1. The right-of-way segment subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2007-0017 to vacate the subject road right-of-way.

RECOMMENDED May 25, 2007.

Peter T. Donahue
King County Hearing Examiner

TRANSMITTED May 25, 2007, to the following parties and interested persons:

City of Bellevue
Attn: Ron Kessack
P.O. Box 90012
Bellevue WA 98009

Comcast, Inc.
Attn: Dianne Albright
1525 - 75th St. SW, Ste. 200
Everett WA 98203

King County Water District
14841 SE 54th St.
Bellevue WA 98006

Puget Sound Energy
Attn: Sharon Scott
P.O. Box 90868
Bellevue WA 98009

Qwest
Attn: Don Dauphiny
1550 Newport Way NW
Issaquah WA 98027

Ming & Helen Yu
2419 - 132nd Ave. SE
Bellevue WA 98006

Kim Claussen
DDES/LUSD
MS OAK-DE-0100

Neil DeGoojer
DNRP/WLRD
MS KSC-NR-0600

Sarah Gagnon
DNRP - Wastewater Trtmt.
MS KSC-NR-0503

Nancy Gordon
KCDOT/D&C
MS KSC-TR-0431

David Gualtieri
KCDOT/CIP & Planning
MS KSC-TR-0317

Denise Hauck
KC Dept. of Exec. Svcs.
MS ADM-ES-0500

Bill Hintz
KC DOT, Rd. Maint.
MS RSD-TR-0100

Nicole Keller
KC DOT, Rd. Svcs. Div.
MS KSC-TR-0231

Kristen Langley
KC-DOT/RSD
MS KSC-TR-0222

Tom Lew
KC DNRP/WLRD
MS KSC-NR-0600

Paulette Norman
KCDOT/RD SERV.
MS KSC-TR-0231

Robert Nunnenkamp
KC DNRP/Prog Dev.
MS KSC-NR-0700

Lydia Reynolds-Jones
KC DOT/RD SERV.
MS KSC-TR-0231

Charlie Sundberg
Bus. Rel. & Economic Dev.
MS BOA-EX-2000

Kelly Whiting
KC DOT, Rd. Svcs. Div.
MS KSC-TR-0231

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before* **June 8, 2007**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before* **June 15, 2007**.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE MARCH 7, 2007, PUBLIC HEARING ON DEPARTMENT OF
TRANSPORTATION, ROAD SERVICES DIVISION FILE NO. V-2536.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Nicole Keller, representing the Department. There were no other participants

The following exhibits were offered and entered into the record:

- | | |
|---------------|--|
| Exhibit No. 1 | Report to the Hearing Examiner for the March 7, 2007 hearing, with 13 attachments |
| Exhibit No. 2 | Petition transmittal letter, dated August 2, 2005 to KC Department of Transportation, from Clerk of the Council |
| Exhibit No. 3 | Petitioner's cover letter stating reason for the request, dated July 31, 2005 |
| Exhibit No. 4 | Petition for vacation of a County road including legal descriptions of petitioner's properties |
| Exhibit No. 5 | Copy of filing fee – check #4258 from the petitioner |
| Exhibit No. 6 | Receipt #00741 from the King County Council for the filing fee |
| Exhibit No. 7 | Letter to the petitioners from Road Services dated September 21, 2005 notifying the petitioners of the vacation process and requesting a revision to the vacation area |
| Exhibit No. 8 | Revised legal description received October 27, 2005 |
| Exhibit No. 9 | String of e-mails requesting a second revision to the vacation area |

- Exhibit No. 10 Revised legal description received November 1, 2005
- Exhibit No. 11 Vicinity map from Thomas Brothers, page 597, grid A-6
- Exhibit No. 12 King County plat map of Horizon View Addition – Division A, recorded in Volume 48 of Plats, Page 44, records of King County, Washington
- Exhibit No. 13 King County plat map of Horizon View Addition – Division C, recorded in Volume 56 of Plats, Page 20, records of King County, Washington
- Exhibit No. 14 Map depicting vacation area
- Exhibit No. 15 E-mail with a copy of the final agency notice sent December 21, 2005
- Exhibit No. 16 Letter to Helen and Ming Yu dated August 2, 2006 identifying DOT recommendation and requesting compensation
- Exhibit No. 17 Compensation worksheet for the amount of \$6,909.75
- Exhibit No. 18 Copy of the compensation check in the amount of \$6,909.75
- Exhibit No. 19 Transmittal letter to the Clerk of the Council providing recommendation of KC DOT and county road engineer
- Exhibit No. 20 E-mail dated August 8, 2006 from Nicole Keller to Anne Noris indicating the error in compensation amount
- Exhibit No. 21 Ordinance transmittal letter dated December 19, 2006 from the King County Executive to Councilmember Larry Phillips
- Exhibit No. 22 Proposed Ordinance 2007-0017
- Exhibit No. 23 Fiscal Note
- Exhibit No. 24 Notice of hearing
- Exhibit No. 25 Affidavit of posting for the hearing
- Exhibit No. 26 Affidavit of publication for the hearing
- Exhibit No. 27 Utility easement for Puget Sound Energy recorded under King County recording number 20060323000563, records of King County, Washington
- Exhibit No. 28 A joint utility easement for Qwest and King County Water District 117 recorded under King County recording number 20060811001099, records of King County, Washington
- Exhibit No. 29 Signed and notarized pre-authorization for the easement for Comcast; has not been recorded
- Exhibit No. 30 Signed, unrecorded copy of drainage easement for culverts within the vacation area
- Exhibit No. 31 Copy of a survey showing locations of the drainage easement and vacation area done by Gary L. Van Ness
- Exhibit No. 32 Agreement with the City of Bellevue regarding future annexation of their property and vacation area, recorded under recording number 20060210000236, records of King County, Washington
- Exhibit No. 33 Signed, recorded copy of a survey showing locations of the drainage easement and vacation area done by Gary L. Van Ness
- Exhibit No. 34 Signed, recorded copy of drainage easement

PTD:gao

V-2536 RPT